

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JAMES A. WILSON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 05-399-JJF
)	
STANLEY TAYLOR, et al.,)	
)	
Defendants.)	

AFFIDAVIT OF PATRICIA DITTO

I, Patricia Ditto, having been duly sworn according to the law, do hereby depose and state the following:

1. I am employed by the State of Delaware, Department of Correction at the Sussex Correctional Institution ("SCI"), in Georgetown, Delaware as a Treatment Administrator. I have been employed by the Department of Correction for over 24 years. My duties include supervision of Counseling staff, Classification staff, Recreation Staff, Law Library Staff and Administrative Specialists. I have held this position since January 1, 2000.

Retaliation

2. Plaintiff James Wilson was moved out of the Merit Building in March of 2006 at the direction of the Warden at the time, Rick Kearney, pending an institutional investigation. The Warden ultimately determined that Wilson could not return to the Merit building and it became necessary to classify him to a new location.

3. Wilson was a medium security level which limited our options for his placement. He was given the choice of placement in the Medium building at SCI with work in the kitchen or placement in the Greentree program at the Delaware Correctional Center ("DCC"). Wilson

refused to make a choice.

4. The Multi-Disciplinary Team ("MDT") determined Wilson should be classified to the Greentree program at DCC. This decision was made because Wilson had made numerous previous requests to be placed in the Greentree program at SCI. Wilson did not qualify for the SCI Greentree program because it is federally funded and, under federal grant requirements, inmates must be within one year of their release date to be enrolled. Wilson was not within one year of his release date.

5. The Greentree program at DCC is not subject to such federal requirements which made Wilson eligible for the program. At no time did Wilson express to me that he did not want to be transferred to the DCC Greentree program. Even if he had, an inmate is not transferred based on their preference. Prison officials had no obligation to even give Wilson a choice of locations.

11 *Del. C. § 4217*

6. Eleven *Del. C. § 4217* is a Truth In Sentencing Modification for exceptional rehabilitation. The statute allows the Department of Correction to submit a recommendation for early release based on an inmate's exceptional rehabilitation. It is a multi-level process that requires approval at each level before moving forward to the next level. It begins with the counselor, and then moves to the MDT for approval, then to the Institutional Based Classification Committee ("IBCC") for approval, then to the Institutional Release Classification Board ("IRCB") for approval, and then to the Parole Board. Finally, a hearing is scheduled and a final determination is made by the sentencing Judge.

7. This process is very rare as few inmates are ever considered "exceptionally rehabilitated." Since June of 2003, only four inmates from the Merit building were submitted under § 4217. Two were African-American and two were Caucasian. Only one, for an African-

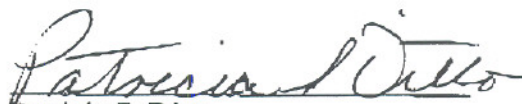
American, was accepted for modification.

7. Plaintiff James Johnson has repeatedly requested submission under § 4217. While Johnson is a good worker, he has completed very little treatment and programming over the years. Johnson also has a violent record and when released on parole, he committed another violent offense. Thus, he does not qualify for submission under § 4217 for exceptional rehabilitation.

Equal Protection

8. Race does not play a factor in any determination of treatment, job placement, classification, or any other decision made by myself or my staff. Inmates are placed in housing depending on their particular classification and security level. Employment decisions are made based on availability, classifications status, and eligibility. An inmate must be classified and approved for a position by the MDT and IBCC. It is our goal to have as many inmates as possible engaged in work and employment regardless of their race.

11. I have made these statements based upon my personal knowledge, specialized training, and experience as an employee of the Department of Correction.


Patricia S. Ditto

SWORN TO AND SUBSCRIBED BEFORE ME THIS 19th DAY OF July, 2007.


NOTARY

SHARON A. BUSS
Notary Public, State of Delaware
My Commission Expires May 21, 2009